

House Daily Reader

Friday, February 10, 2006

Bills Included				
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HB 1096	HB 1106	HB 1118	HB 1119	HB 1147
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State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0317

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1013** - 02/08/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to make an appropriation to the Board of Regents for the
2 construction, remodeling, or renovation of various structures or facilities on the campuses
3 of the state's universities to provide additional support for women's athletic programs in
4 furtherance of the policies and objectives of Title IX of the Education Act Amendments of
5 1972.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

7 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
8 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
9 electric facilities, sidewalks, parking, landscaping, architectural and engineering services,
10 asbestos abatement, removal of existing roofing and structures, and such other services or
11 actions as may be required to accomplish, the projects enumerated in section 3 of this Act, all
12 at the estimated cost of three million ten thousand seven hundred fourteen dollars.

13 Section 2. There is hereby appropriated the sum of three hundred twenty-three thousand
14 seven hundred fourteen dollars (\$323,714) from the higher education facilities fund, and two
15 million six hundred eighty-seven thousand dollars (\$2,687,000) from other funds available to



the universities for the projects specified in section 3 of this Act.

Section 3. The projects authorized in section 1 of this Act are the following projects, together with their pertinent appropriations:

(1) At Black Hills State University in Spearfish, South Dakota, projects to upgrade a locker room, provide office space for coaches, and create practice and competition softball fields, all for an estimated cost of one million nine hundred sixty-nine thousand seven hundred fourteen dollars of which three hundred twenty-three thousand seven hundred fourteen dollars (\$323,714) is to be appropriated from the higher education facilities fund allocated to the university as part of its annual maintenance and repair allocation, and one million six hundred forty-six thousand dollars (\$1,646,000) is to be appropriated from other funds available to the university;

(2) At Dakota State University in Madison, South Dakota, projects to upgrade softball dugouts, acquire portable fencing for the softball field, upgrade the soccer field, and upgrade locker room space, all for an estimated cost of eighty-five thousand five hundred dollars (\$85,500), to be appropriated from other funds available to the university;

(3) At Northern State University in Aberdeen, South Dakota, projects to upgrade soccer fields and to provide office space for coaches, all for an estimated cost of thirty-four thousand five hundred dollars (\$34,500), to be appropriated from other funds available to the university;

(4) At South Dakota State University in Brookings, South Dakota, a project to upgrade softball facilities for an estimated cost of one hundred twenty-five thousand dollars (\$125,000), to be appropriated from other funds available to the university;

1 (5) At the University of South Dakota in Vermillion, South Dakota, projects to renovate
2 showers and locker rooms, to improve softball fields, soccer fields and their seating,
3 and to make improvements to the indoor tennis facility, all for an estimated cost of
4 seven hundred ninety-six thousand dollars (\$796,000), to be appropriated from other
5 funds available to the university.

6 Section 4. The Board of Regents may accept, transfer, and expend any funds obtained for
7 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
8 be deemed appropriated to the projects authorized by this Act, in addition to the amounts
9 otherwise authorized herein.

10 Section 5. The design and construction of the facilities approved by this Act shall be under
11 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
12 commissioner of the Bureau of Administration and the executive director of the Board of
13 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
14 authorized by this Act.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0362

SENATE ENGROSSED NO. **HB 1021** - 02/09/2006

Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and Management

1 FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to disasters in the
2 state and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the state general fund the sum of three million
5 dollars (\$3,000,000), or so much thereof as may be necessary, to the special emergency and
6 disaster special revenue fund for costs related to disasters in South Dakota.

7 Section 2. The secretary of public safety shall approve vouchers and the state auditor shall
8 draw warrants to pay expenditures authorized by this Act.

9 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
10 June 30, 2007, shall revert in accordance with § 4-8-21.

11 Section 4. Whereas, this Act is necessary for the support of the state government and its
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
13 full force and effect from and after its passage and approval.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0327

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1040** - 02/08/2006

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to revise the minimum monthly fee charged for care at the
2 Human Services Center.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 27A-13-16 be amended to read as follows:

5 27A-13-16. ~~The minimum charge for care in the center is two hundred dollars per month.~~
6 ~~If the charge against the patient is less than two hundred dollars for each month of patient status~~
7 ~~at the South Dakota Human Services Center, the county of residence shall be charged with the~~
8 ~~difference between the applicable charge against the patient and two hundred dollars for each~~
9 ~~month of patient status and a pro rata amount of two hundred dollars for each partial month of~~
10 ~~patient status.~~ Effective January 1, 2007 through December 31, 2008, the county of residence
11 shall pay an admission fee of four hundred dollars to the center for each patient the county is
12 legally responsible. The admission fee shall cover the first thirty days of care at the center. If the
13 patient remains at the center for longer than thirty days, the minimum charge paid by the county
14 of residence shall be a pro rata amount of the admission fee multiplied by twelve months and
15 divided by three hundred sixty-five days. Effective January 1, 2009 through December 31, 2009,



1 the county of residence shall pay an admission fee of five hundred dollars to the center for each
2 patient the county is legally responsible. The admission fee shall cover the first thirty days of
3 care at the center. If the patient remains at the center for longer than thirty days, the minimum
4 charge paid by the county of residence shall be a pro rata amount of the admission fee multiplied
5 by twelve months and divided by three hundred sixty-five days. Effective January 1, 2010
6 through December 31, 2010, the county of residence shall pay an admission fee of six hundred
7 dollars to the center for each patient the county is legally responsible. The admission fee shall
8 cover the first thirty days of care at the center. If the patient remains at the center for longer than
9 thirty days, the minimum charge paid by the county of residence shall be a pro rata amount of
10 the admission fee multiplied by twelve months and divided by three hundred sixty-five days.
11 The county of residence shall pay an admission fee equivalent to three days' per diem, as
12 established by § 27A-13-7, to the center for each patient the county is legally responsible. The
13 admission fee shall cover the first thirty days of care at the center. If a patient is discharged from
14 the center prior to the third day, the fee shall be the actual per diem per day. If a patient remains
15 at the center for longer than thirty days, the minimum charge paid by the county of residence
16 shall be a per day pro rata amount of the admission fee multiplied by twelve months and divided
17 by three hundred sixty-five days.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

345M0063

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1077** - 02/06/2006

Introduced by: Representatives Boomgarden, Deadrick, Dykstra, Gillespie, Hargens, Hunhoff, Jerke, Kroger, Pederson (Gordon), Rausch, Rave, Schafer, and Sebert and Senators Kooistra, Koskan, Lintz, Moore, Nesselhuf, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to authorize water user districts to establish and operate
2 wastewater systems.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 46A-9-1 be amended to read as follows:

5 46A-9-1. Conservation of the state's water resources is hereby declared to be a state
6 function, and the public interest, welfare, convenience, and necessity require the creation of
7 water user districts and the construction of systems of works, ~~in the manner hereinafter provided~~
8 as provided in this chapter, for the conservation, storage, distribution, and utilization of water
9 and the collection, treatment, and disposal of wastewater. The construction of ~~said~~ systems of
10 works by such districts, as ~~herein provided for~~ provided in this chapter, is hereby declared to be
11 in all respects for the welfare and benefit of the people of South Dakota. It is the intention of the
12 Legislature of South Dakota that this chapter shall be liberally construed to effectuate ~~the~~
13 ~~purposes herein provided for~~ these purposes.

14 Section 2. That § 46A-9-2 be amended to read as follows:



46A-9-2. Terms used in this chapter mean:

- (1) "Board," ~~shall mean~~ the board of directors of a district organized under this chapter;
- (2) "City" or "town," ~~shall mean~~ a municipal corporation as classified in §§ 9-2-1 and 9-2-2; ~~and "city" shall also mean.~~ The term, city, also means a city organized under special territorial charter;
- (3) "Landowner," ~~shall mean~~ any resident of South Dakota who is an owner of land in any county containing any proposed or existing water user district as evidenced by records in the office of the register of deeds or director of equalization; ~~provided, however, that.~~ However, if land is sold under a contract for deed, which is of record in the office of the register of deeds or director of equalization, both the vendor and vendee shall be treated as ~~a landowner~~ landowners;
- (4) "Project," ~~shall mean~~ any one of the works ~~hereinafter~~ defined in this section, or any combination of such works which are physically connected or jointly managed and operated as a single unit;
- (5) "Water Management Board," the state board created in § 1-40-15;
- (6) "Water user district" or "district," ~~shall mean a~~ any district organized under this chapter, either as originally organized or as the ~~same may be from time to time~~ district is reorganized, altered, or extended;
- (7) "Works" and "system," ~~shall be deemed to include~~ all lands, property, rights, rights-of-way, easements, and franchises relating thereto and deemed necessary or convenient for their operation, and all water rights acquired or exercised by the board in connection with ~~such the works, and shall embrace or system.~~ The terms, works and system, include all means of conserving, controlling, and distributing water, including, ~~without limiting the generality of the foregoing,~~ reservoirs, dams, feeder

1 canals, diversion canals, distributing canals, lateral ditches, structures, pumping units,
2 mains, pipelines, and waterworks systems, ~~and shall~~. The terms include all such
3 works for the conservation, development, storage above or under the ground,
4 spreading, distribution, utilization, and drainage of water, including, ~~without limiting~~
5 ~~the generality of the foregoing,~~ works for the purpose of irrigation, drainage, flood
6 control, ~~watering of stock,~~ stock watering, and supplying of water for public,
7 domestic, industrial, and other uses. The terms include any plant or system for the
8 collection, treatment, or disposal of wastewater, including sanitary sewers and
9 sewage and sewage treatment plants and systems.

10 Section 3. That § 46A-9-23.1 be amended to read as follows:

11 46A-9-23.1. If the board of directors of a water user district finds that there are lands within
12 the district not utilizing the ~~water supply~~ services of the district and that it is not feasible or
13 necessary to retain those lands within the district, the board shall adopt a resolution stating its
14 findings and declaring its intention to exclude the lands. The board shall, within ten days
15 following the adoption of the resolution, file it with the Board of Water and Natural Resources.
16 Upon receipt of the resolution, the Board of Water and Natural Resources shall determine
17 whether the resolution complies with the requirements to exclude the lands, and if so, shall
18 establish a hearing date on the issue no later than ninety days from the date of the filing of the
19 resolution. Following the hearing, the Board of Water and Natural Resources may approve or
20 disapprove the action proposed by the resolution. Upon approval and filing by the district board
21 of a certificate of approval in the Office of the Secretary of State, together with a copy of the
22 resolution, and after filing by the district board of a copy certified by the secretary of state in the
23 office of the county auditor of each county in which any lands to be excluded are located, the
24 lands shall be excluded from the water user district.

Section 4. That § 46A-9-26 be amended to read as follows:

46A-9-26. Every owner of land and entryman within the district, and every person or corporation which is a party to a contract with the district for the purchase of water, for the collection, treatment, or disposal of wastewater, or other services to be furnished by the district, may cast one vote at each election for each director to be elected for whom the voter is entitled to vote. However, the vote which a voter is entitled to cast by reason of being a party to any such contract with the district ~~shall be~~ is in addition to the vote to which the voter may be entitled by reason of being a landowner or entryman within the district. ~~In case~~ If election divisions are provided for, each person or corporation entitled to vote by reason of being a party to a contract, ~~as above provided in this section,~~ shall select the division in which ~~he or it shall vote, which the~~ person or corporation will vote. The selection shall be made under procedures established by resolution by the board of directors.

Section 5. That § 46A-9-42 be amended to read as follows:

46A-9-42. Any nonprofit corporation, cooperative, or association engaged in the treatment, distribution, ~~and~~ or sale of water or the collection, treatment, or disposal of wastewater to a rural area may, by majority vote of the membership voting in an election ~~thereon~~ on the question, transfer all of its assets, liabilities, contracts, and other obligations to a water user district as defined in § 46A-9-2, sanitary district authorized to operate a water system under § 34A-5-41, or a municipality. ~~Such action must also be~~ No such action may be taken unless approved by majority vote of the water user district or sanitary district membership voting in an election ~~thereon~~ on the action.

Section 6. That § 46A-9-43 be amended to read as follows:

46A-9-43. In connection with the powers provided by §§ 46A-9-40 and 46A-9-41, ~~such the~~ water user district ~~shall have the right and power to~~ may enter into any contract, lease,

1 agreement, or arrangement with any state, county, municipality, district, governmental, or public
2 corporation or association, or with any person, firm, or corporation, public or private, or with
3 the government of the United States, or with any officer, department, bureau, or agency thereof
4 of the government of the United States, or with any corporation organized under federal law for
5 the purpose of exercising or utilizing. The contract, lease, agreement, or arrangement may be
6 for any of the following purposes:

- 7 (1) Exercising or using any one or more of the ~~above enumerated powers, or for the sale~~
8 powers authorized in §§ 46A-9-40 and 46A-9-41;
- 9 (2) Selling, leasing, or otherwise furnishing or establishing of water rights, water supply,
10 conveyance and distribution of water, water service, or water storage, ~~for irrigation~~;
- 11 (3) Irrigation or flood control ~~or for domestic~~;
- 12 (4) Domestic, industrial, municipal, or stock-watering purposes, ~~or for the drainage~~;
- 13 (5) Drainage of lands, ~~or for the financing~~;
- 14 (6) Provision of services or systems for the collection, treatment, or disposal of
15 wastewater;
- 16 (7) Provision of billing, collection, hookup, or termination services for entities that
17 provide services for the collection, treatment, or distribution of water or wastewater;
- 18 (8) Financing or payment of the cost and expenses incident to the construction,
19 acquisition, or operation of such works, or incident to any obligation or liability
20 entered into or incurred by ~~such~~ the district.

21 Section 7. That chapter 46A-9 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 No portion of any plant or system that is operated by a water user district for the collection,
24 treatment, or disposal of wastewater, including sanitary sewers and sewage and sewage

1 treatment plants and systems, may be located within a zone that extends ten miles outward from
2 the corporate limits of any municipality without the approval of the municipality. However, if
3 the ten-mile zones of more than one municipality overlap, the jurisdiction of each municipality
4 over any such plant or system terminates at a boundary line equidistant from the respective
5 corporate limits of the municipalities; and the water user district shall obtain the approval of
6 each municipality that would have jurisdiction over any portion of the plant or system to be
7 operated by the water user district. The restrictions provided in this section do not apply to any
8 portion of any such plant or system if the portion was in existence on the effective date of this
9 Act or if the portion predates any expansion by a municipality that would otherwise cause the
10 plant or system to be in violation of this section.

11 Section 8. That § 46A-9-48 be amended to read as follows:

12 46A-9-48. No person, irrigation district, municipality, county, or other governmental
13 subdivision, irrigation company, or other public or private corporation or association ~~shall be~~
14 is liable for the payment of any rent or charge for water storage; ~~water supply; for the~~
15 collection, treatment, or disposal of wastewater; or for any of the costs of operation of ~~such a~~
16 water user district, unless a contract ~~therefor~~ for such services has been entered into between
17 ~~such the~~ person or public or private organization and the water user district furnishing ~~such~~
18 ~~water storage or water supply~~ the services.

19 Section 9. That § 46A-9-53 be amended to read as follows:

20 46A-9-53. ~~Prior to such~~ Before publication of any advertisement pursuant to chapter 5-18,
21 plans and specifications for the proposed construction work or materials shall be prepared and
22 filed at the principal office or place of business of the water user district. ~~Such~~ The
23 advertisement shall be published as required by § 5-18-3 and, in the discretion of the board of
24 directors of the district, may be published in such additional newspapers or trade or technical

1 periodicals as may be selected by the board in order to give proper notice of the receiving of
2 bids. ~~Such~~ The advertisement shall designate the nature of construction work proposed to be
3 done or materials proposed to be purchased. ~~The Department of Water and Natural Resources~~
4 ~~shall supervise bid lettings by the board of directors of water user districts.~~

5 Section 10. That § 46A-9-57 be amended to read as follows:

6 46A-9-57. Any such water user district may pledge and put up as collateral security for a
7 loan any district obligations. Any district issuing district obligations under the provisions of this
8 chapter ~~is hereby specifically authorized and empowered to~~ may pledge all or any part of the
9 revenues which the district may derive from the sale, conveyance, ~~and or~~ or distribution of water
10 for irrigation, domestic, municipal, industrial, ~~and or~~ or stock-watering purposes, ~~or, from the~~
11 ~~storage of water; or from the collection, treatment, or disposal of wastewater,~~ as security for the
12 payment of the principal and interest ~~thereon~~ on the loan. Any such pledge of revenues shall be
13 made by the directors of the district by resolution or by agreement with the purchasers or holders
14 of ~~such~~ the district obligations. Any such resolution or agreement may specify the particular
15 revenues that are pledged and the terms and conditions to be performed by the district and the
16 rights of the holders of ~~such~~ the district obligations, and may provide for priorities of liens in
17 any such revenues as between the holders of district obligations issued at different times or
18 under different resolutions or agreements.

19 Section 11. That § 46A-9-60 be amended to read as follows:

20 46A-9-60. The directors of any water user district organized under the provisions of this
21 chapter ~~are authorized to agree~~ may enter into agreements with the holders of any such district
22 obligations as to the maximum or minimum amounts ~~which such districts shall~~ that the district
23 may charge and collect for water sold by the district or for the collection, treatment, or disposal
24 of wastewater or other services provided by the district.

Section 12. That § 46A-9-62 be amended to read as follows:

46A-9-62. Every contract made by the board of directors for the sale, conveyance, and distribution of water, use of water, water storage, or for the collection, treatment, or disposal of wastewater, or other service, or for the sale of any property or facilities, shall provide that in the event of any failure or default in the payment of any moneys specified in ~~such~~ the contract to be paid to the board, the board may, upon such notice as ~~shall be~~ prescribed in ~~such~~ the contract, terminate ~~such~~ the contract and all obligations ~~thereunder~~ under the contract. The act of the board in ceasing on any such default to furnish or deliver water, use of water, or water storage, ~~under such~~ or other services under the contract ~~shall~~ does not deprive the board of, or limit any remedy provided by ~~such~~ the contract or by law for the recovery of any ~~and all~~ moneys due or which may become due under ~~such~~ the contract.

Section 13. That § 46A-9-63 be amended to read as follows:

46A-9-63. The board of directors shall create ~~three~~ separate funds, one fund to be known as the construction fund, another fund to be known as the water fund, ~~and~~ another fund to be known as the debt service fund, ~~each such fund to~~ and, if the district provides services for the collection, treatment, or disposal of wastewater, a fund to be known as the wastewater fund. Each such fund shall be identified by the same series letter or letters as the bonds, warrants, notes, debentures, or other evidences of indebtedness of ~~such~~ the series. A separate account shall be kept ~~of for~~ for each construction fund ~~and of~~, each water fund ~~and of~~, each wastewater fund, and each debt service fund for each project.

Section 14. That § 46A-9-65 be amended to read as follows:

46A-9-65. All income or profit and revenue of the works and all moneys received from the sale, conveyance, distribution, or disposal of water, use of water, or water storage; from the collection, treatment, or disposal of wastewater; and from the operation, lease sale, or other

1 disposition of the works, property, and facilities acquired under the provisions of this chapter,
2 shall be paid to the credit of the appropriate water or wastewater fund. All costs of operation,
3 maintenance, and repairs of the works, and all administrative and clerical expenses of the water
4 user district, shall be paid from the appropriate water or wastewater fund.

5 Section 15. That § 46A-9-69 be amended to read as follows:

6 46A-9-69. No irrigation or other water supply works, ~~or~~ drainage works, or systems or
7 facilities for the collection, treatment, or disposal of wastewater owned by the district ~~shall~~ may
8 be sold, alienated, or mortgaged by the district, except under the circumstances described by
9 §§ 46A-9-70 to 46A-9-72, inclusive.

10 Section 16. That § 46A-9-76 be amended to read as follows:

11 46A-9-76. ~~This chapter shall not be construed as depriving~~ Nothing in this chapter deprives
12 any municipality within the State of South Dakota, located either wholly or partially within or
13 outside any water user district, ~~from~~ of the exercise of any rights with which it may be invested
14 by law to construct, acquire, operate, maintain, or dispose of waterworks, or systems or facilities
15 for the collection, treatment, or disposal of wastewater, or to perform any other of its lawful
16 functions. ~~Provided, that~~ However, any municipality may enter into any contract with any such
17 district for the storage, purchase, or distribution of water or for the collection, treatment or
18 disposal of wastewater, for municipal, domestic, or industrial purposes.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

128M0418

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1090** - 02/08/2006

Introduced by: Representatives Klaudt, Davis, Dennert, Glenski, Haverly, Hennies, Hills, Hunhoff, Jerke, Lange, McLaughlin, Peters, Putnam, Rausch, Street, Tidemann, Turbiville, and Willadsen and Senators Bogue, Apa, Bartling, Duniphan, Earley, Gant, Greenfield, Hanson (Gary), Koetzle, McNenny, Napoli, Smidt, and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to appropriate money for compensatory payments to certain
2 school districts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the state general fund the sum of one hundred
5 sixty thousand dollars (\$160,000), or so much thereof as may be necessary, to the Department
6 of Education for compensatory payments to South Dakota school districts contiguous with
7 North Dakota entitled to relief pursuant to § 13-28A-11.

8 Section 2. The secretary of the Department of Education shall approve vouchers and the
9 state auditor shall draw warrants to pay expenditures authorized by this Act.

10 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
11 June 30, 2008, shall revert in accordance with § 4-8-21.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

336M0198

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1096** -

02/09/2006

Introduced by: Representative Deadrick and Senator Bogue

1 FOR AN ACT ENTITLED, An Act to regulate access to and use of natural nonmeandered lakes
2 and to provide certain penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Legislature finds that the South Dakota Supreme Court, in the case of Parks
5 v. Cooper, 2004 SD 27 (filed February 25, 2004), held that the Legislature, rather than the
6 courts, has an obligation to determine the extent of the public's right to use natural
7 nonmeandered bodies of water held in trust for the public by the state.

8 Section 2. Nothing in this Act limits or changes the authority granted in titles 46 and 46A
9 to the Water Management Board or the Department of Environment and Natural Resources to
10 appropriate and regulate beneficial uses of water in any natural nonmeandered lake or to protect
11 water quality as authorized in Title 34A.

12 Section 3. Nothing in this Act limits or changes the authority granted in Titles 41 and 42 to
13 the Game, Fish and Parks Commission or the Department of Game, Fish and Parks to regulate
14 fishing, hunting, trapping, boating, or other public use activities.

15 Section 4. Except as provided in sections 5 to 7, inclusive, of this Act, no person may use



1 any natural nonmeandered lake overlying privately-owned property for any recreational use.
2 A violation of this section is a Class 2 misdemeanor.

3 Section 5. Irrespective of the ownership of the lake bed or navigability of the water, any
4 person has access to and may use any natural nonmeandered lake for any lawful recreational
5 purpose under the following conditions:

6 (1) If the natural nonmeandered lake is designated for public recreational use pursuant
7 to section 6 of this Act, the person may use any portion of the lake for any lawful
8 recreational use;

9 (2) If the person has obtained permission from the owner or lessee of the property
10 underlying any portion of any natural nonmeandered lake that would otherwise be
11 restricted under the provisions of this Act, the person may use that portion of the lake
12 for lawful recreational purposes as limited by the scope of the owner's or lessee's
13 permission; or

14 (3) If the person gains access to the natural nonmeandered lake as provided in section 8
15 of this Act, the person's recreational use of the lake is restricted as provided in section
16 8 of this Act.

17 Section 6. The Game, Fish and Parks Commission shall create and publish by rules
18 promulgated pursuant to chapter 1-26 a list of natural nonmeandered lakes to which the public
19 has access and may use for all recreational purposes. The list shall designate any natural
20 nonmeandered lake for such public access and use if the lake has been used by the public for
21 recreational purposes for at least twenty-one consecutive years in an open, obvious, and adverse
22 fashion and if the lake satisfies the following criteria:

23 (1) The natural nonmeandered lake is contiguous with a meandered body of water; or

24 (2) The natural nonmeandered lake has a well-established bed and shoreline that

1 historically have been capable of holding various levels of water; the area of the lake
2 is twenty-five acres or larger; lawful public access to the lake exists via
3 publicly-owned land or a public right-of-way or section line; public recreational use
4 benefits exist such as boating, swimming, trapping, fishing, or hunting; and
5 establishing recreational use will not impair water rights established in § 46-2A-9.

6 The commission may add a lake to or remove a lake from the list of lakes depending on the
7 commission's determination of whether or not the lake meets the criteria specified in this
8 section. The commission shall review the list promulgated under this section once every two
9 years. The commission may only add lakes to or remove lakes from the list during the two-year
10 periodic review of the list required by this section.

11 Section 7. If a natural nonmeandered lake is not included on the list established in section
12 6 of this Act and is accessible for recreational use via a public roadway, public right-of-way, or
13 other lawful point of public access, all contiguous waters of that lake are open for recreational
14 use unless the owner or any other person legally in possession of the private property under the
15 water provides markings to restrict recreational use of the water overlying the private property.
16 The property owner shall file a notice with the Game, Fish and Parks Commission verifying that
17 the area was marked in accordance with rules promulgated pursuant to this section and
18 identifying the restricted areas. Any unauthorized recreational use of water overlying private
19 property that is properly marked pursuant to this section is a Class 2 misdemeanor. If the water
20 is not properly marked in accordance with this section, the water is open for recreational use.
21 The Game, Fish and Parks Commission shall promulgate rules pursuant to chapter 1-26 to
22 specify methods, criteria, and standards for markings to restrict recreational use of water under
23 this section; procedures for filing notice with the commission of the marking of an area under
24 this section; procedures pertaining to review by the Department of Game, Fish and Parks of

1 markers placed under this section; and procedures governing the resolution of disputes under
2 section 8 of this Act. Nothing in this Act prohibits shore fishing of any natural nonmeandered
3 lake from any public roadway or right-of-way unless otherwise prohibited by law.

4 Section 8. Any person may request the Department of Game, Fish and Parks to review the
5 placement of property markers for compliance with the provisions of section 7 of this Act. If the
6 Department of Game, Fish and Parks cannot resolve a dispute related to the placement of such
7 property markers, the dispute shall be presented to the Game, Fish and Parks Commission for
8 resolution using the contested case procedures provided in chapter 1-26. Final determinations
9 of the commission may be appealed as provided in chapter 1-26. Nothing in this section limits
10 the right of any property owner to mark the owner's property or the water overlying the property
11 if the marking complies with the provisions of section 8 of this Act.

12 Section 9. The provisions of § 43-17-2 pertaining to the public highway around the
13 perimeter of any navigable lake do not apply to any natural nonmeandered lake.

14 Section 10. Incidental contact with private land underlying any natural nonmeandered lake
15 open to public recreational use is not a trespass if the underlying land is not within an area that
16 is marked and restricted pursuant to section 7 of this Act. Such incidental contact includes
17 contact between the land and such things as anchors, fishing tackle, foot contact, or other
18 contact associated with an otherwise legal activity. Contact with private land in an area
19 restricted pursuant to section 7 of this Act that results from shore fishing activities conducted
20 from a public roadway or right-of-way and that solely involves contact by fishing tackle or
21 similar items is not a trespass. Contact with private land underlying any natural nonmeandered
22 lake that results from use of the lake for transportation purposes is not a trespass. Any user of
23 a natural nonmeandered lake may be held liable for damage caused to private property as
24 provided for in Title 21.

1 Section 11. Nothing in this Act limits or changes the prohibition in § 41-9-1.4 against
2 discharging a firearm while on that portion of public waters that inundate privately-owned
3 property from a location which is within six hundred sixty feet of an occupied dwelling, church,
4 schoolhouse, or livestock being held in a confined area according to standard animal husbandry
5 practices.

6 Section 12. No person may operate any motorized vehicle or device or any combustion
7 engine on a natural nonmeandered lake for or in connection with any recreational purpose within
8 six hundred sixty feet of an occupied dwelling, church, schoolhouse, or livestock being held in
9 a confined area according to standard animal husbandry practices. A violation of this section is
10 a Class 2 misdemeanor.

11 Section 13. No person may cut, remove, or in any way tamper with any fence legally
12 constructed, located, and maintained on private land to gain access for purposes of shore fishing
13 or to gain access to the lake. A violation of this section is a Class 2 misdemeanor.

14 Section 14. The liability of any landowner owning private land underlying a natural
15 nonmeandered lake open to public recreational use is limited as provided for in §§ 20-9-12 to
16 20-9-18, inclusive.

17 Section 15. Nothing in this Act restricts the use of any natural nonmeandered lake for
18 transportation purposes.

19 Section 16. The Department of Environment and Natural Resources shall submit a written
20 report to the Legislature during its regular session in 2010 following consultation with and input
21 from the South Dakota Department of Game, Fish and Parks and other interested persons and
22 entities. The written report shall include recommendations to the Legislature with respect to
23 policy and criteria to be considered in designating natural, nonmeandered lakes as open for
24 public access and recreational use.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

654M0496

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1106 - 02/09/2006

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Dykstra, Cutler, Frost, Hackl, and Willadsen and Senators Olson (Ed), Gant, Hansen (Tom), and Koetzle

1 FOR AN ACT ENTITLED, An Act to provide for a legislative study of the taxes imposed on
2 the telecommunications industry.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Executive Board of the Legislative Research Council shall appoint an interim
5 legislative committee to study the state and local taxes imposed on the telecommunications
6 industry and the distribution of tax revenue among the various jurisdictions. The committee
7 shall study the current telecommunications tax structure using the principles of efficiency,
8 neutrality, equity, and simplicity to guide their work. These terms mean:

9 (1) "Tax efficiency," the extent to which a tax distorts economic decision making and
10 resource allocation;

11 (2) "Competitive neutrality," whether a tax distorts economic decision making and
12 resource allocation;

13 (3) "Tax equity," a fundamental sense of fairness in the incidence of the tax system, or
14 who bears the burden of the taxes; and



1 (4) "Administrative simplicity," how complex and costly a tax is to administer and
2 collect.

3 The committee shall make a report of its findings and its recommendations to the Executive
4 Board of the Legislative Research Council.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

727M0603

SENATE ENGROSSED NO. **HB 1118** - 02/08/2006

Introduced by: Representatives Rounds, Hennies, McCoy, and O'Brien and Senators Bogue, Bartling, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding failure to stop at the
2 command of a law enforcement officer and regarding eluding a law enforcement officer in
3 a vehicle.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 32-33-18 be amended to read as follows:

6 32-33-18. Any driver of a ~~motor~~ vehicle who intentionally fails or refuses to bring a vehicle
7 to a stop, ~~or who otherwise flees or attempts to elude a pursuing law enforcement vehicle,~~ when
8 given visual or audible signal to bring the vehicle to a stop, is guilty of ~~eluding~~ failure to stop
9 at the signal of a law enforcement officer. The signal given by the law enforcement officer may
10 be by hand, voice, emergency light, or siren. The officer giving the signal shall be in uniform,
11 prominently displaying a badge of office, and the vehicle shall be appropriately marked showing
12 it to be an official law enforcement vehicle.

13 ~~Eluding~~ Failure to stop at the signal of a law enforcement officer is a ~~Class 1~~ Class 2
14 misdemeanor. In addition, the court ~~shall~~ may order that the defendant's driver's license be
15 revoked for up to one year, but may issue an order, upon proof of financial responsibility



1 pursuant to § 32-35-43.1, allowing the defendant to operate a ~~motor~~ vehicle for purposes of the
2 defendant's employment, attendance at school, or counseling programs. ~~Any person who is found~~
3 ~~guilty of eluding is subject to the additional enhanced penalties if the course of eluding results~~
4 ~~in:~~

5 ~~— (1) — Death or great bodily injury to another person, a Class 4 felony; and~~

6 ~~— (2) — Substantial bodily injury to another person or property damage in excess of five~~
7 ~~hundred dollars to property belonging to a person other than the person eluding, a~~
8 ~~Class 6 felony.~~

9 ~~— For any subsequent violation, the court shall order that the defendant's driver's license be~~
10 ~~revoked for five years.~~

11 Section 2. That chapter 32-33 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Any driver of a vehicle who, after failing or refusing to bring a vehicle to a stop pursuant
14 to § 32-33-18, flees from the law enforcement officer or attempts to elude the pursuit of the law
15 enforcement officer is guilty of eluding. Eluding is a Class 1 misdemeanor. In addition, the court
16 may order that the defendant's driver's license be revoked for up to one year, but may issue an
17 order, upon proof of financial responsibility pursuant to § 32-35-43.1, allowing the defendant
18 to operate a vehicle for purposes of the defendant's employment, attendance at school, or
19 counseling programs.

20 Section 3. That chapter 32-33 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 Any driver of a vehicle who flees from a law enforcement officer or attempts to elude the
23 pursuit of a law enforcement officer is guilty of aggravated eluding if, at any time during the
24 flight or pursuit, the driver operates the vehicle in a manner that constitutes an inherent risk of

1 death or serious bodily injury to any third person.

2 Aggravated eluding is a Class 6 felony. In addition, the court may order that the defendant's
3 driver's license be revoked for up to one year, but may issue an order, upon proof of financial
4 responsibility pursuant to § 32-35-43.1, allowing the defendant to operate a vehicle for purposes
5 of the defendant's employment, attendance at school, or counseling programs. For any
6 subsequent aggravated eluding violation, the court shall order that the defendant's driver's
7 license be revoked for five years.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

295M0435

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1119 - 02/08/2006

Introduced by: Representatives Rounds, Cutler, Gillespie, Hargens, Hennies, O'Brien, and
Rave and Senators Moore, Gray, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to repeal certain mandatory minimum sentences for driving
2 under the influence, to expand those substances under which a person may be found to be
3 under the influence, and to revise certain driving under the influence provisions for clarity
4 and consistency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 32-23-1 be amended to read as follows:

7 32-23-1. No person may drive or be in actual physical control of any vehicle while:

- 8 (1) There is 0.08 percent or more by weight of alcohol in that person's blood as shown
9 by chemical analysis of that person's breath, blood, or other bodily substance;
- 10 (2) Under the influence of an alcoholic beverage, marijuana, or any controlled drug or
11 substance not obtained pursuant to a valid prescription, or any combination of an
12 alcoholic beverage, marijuana, or such controlled drug or substance;
- 13 (3) Under the influence of ~~marijuana~~ or any controlled drug or substance obtained
14 pursuant to a valid prescription, or any other substance, to a degree which renders the
15 person incapable of safely driving; ~~or~~



(4) Under the combined influence of an alcoholic beverage and ~~marijuana~~ or any controlled drug or substance obtained pursuant to a valid prescription, or any other substance, to a degree which renders the person incapable of safely driving; or

(5) Under the influence of any substance ingested, inhaled, or otherwise taken into the body as prohibited by § 22-42-15.

Section 2. That § 32-23-1.1 be amended to read as follows:

32-23-1.1. A law enforcement officer may, without a warrant, arrest a person for a violation of the provisions of § 32-23-1 when ~~he~~ the officer has probable cause to believe that the person to be arrested has been involved in a traffic accident and has violated the provisions of § 32-23-1 and that such violation occurred prior to or immediately following such traffic accident.

Section 3. That § 32-23-1.2 be amended to read as follows:

32-23-1.2. Every person operating a ~~motor~~ vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a law enforcement officer, submit to a breath test to be administered by such officer. If such test indicates that such operator has consumed alcohol, the law enforcement officer may require such operator to submit to a chemical test in the manner set forth in this chapter.

Section 4. That § 32-23-2 be amended to read as follows:

32-23-2. If conviction for a violation of § 32-23-1 is for a first offense, such person is guilty of a Class 1 misdemeanor, and the defendant's driving privileges shall be revoked for not less than thirty days. However, the court may in its discretion issue an order upon proof of financial responsibility, pursuant to § 32-35-43.1, permitting the person to operate a ~~motor~~ vehicle for purposes of ~~the person's~~ employment, attendance at school, or attendance at ~~court-ordered~~ counseling programs ~~during the hours of the day and the days of the week as set forth in the~~ order. The court may also order the revocation of the defendant's driving privilege for a further

1 period not to exceed one year or restrict the privilege in such manner as it sees fit for a period
2 not to exceed one year.

3 Section 5. That § 32-23-2.1 be amended to read as follows:

4 32-23-2.1. Any person convicted of a first offense pursuant to ~~§ 32-23-2~~ § 32-23-1 with a
5 0.17 percent or more by weight of alcohol in ~~his~~ the person's blood shall, in addition to the
6 penalties provided in § 32-23-2, be required to undergo a court-ordered evaluation to determine
7 if the defendant ~~has an addiction to alcohol~~ is chemically dependent. The cost of such evaluation
8 shall be paid by the defendant.

9 Section 6. That § 32-23-3 be amended to read as follows:

10 32-23-3. If conviction for a violation of § 32-23-1 is for a second offense, such person is
11 guilty of a Class 1 misdemeanor, and the court shall, in pronouncing sentence, unconditionally
12 revoke the defendant's driving privilege for a period of not less than one year. However, upon
13 the successful completion of a court-approved ~~alcohol treatment~~ chemical dependency program,
14 and proof of financial responsibility pursuant to § 32-35-43.1, the court may permit the person
15 to drive for the ~~purpose~~ purposes of employment ~~and may restrict the privilege by the imposition~~
16 ~~of such conditions as the court sees fit, attendance at school, or attendance at counseling~~
17 programs. If such person is convicted of driving without a license during that period, the person
18 shall be sentenced to the county jail for not less than three days, which sentence may not be
19 suspended.

20 Section 7. That § 32-23-4 be amended to read as follows:

21 32-23-4. If conviction for a violation of § 32-23-1 is for a third offense, the person is guilty
22 of a Class 6 felony, and the court, in pronouncing sentence, shall ~~unconditionally revoke the~~
23 ~~defendant's driving privileges for such period of time as may be determined by the court, but in~~
24 ~~no event less than one year from the date sentence is imposed or one year from the date of~~

1 ~~discharge from incarceration~~ order that the driver's license of any person so convicted be
2 revoked for a period of not less than one year from the date sentence is imposed or one year
3 from the date of initial release from incarceration to parole supervision, whichever is later. If
4 the person is convicted of driving without a license during that period, he shall be sentenced to
5 the county jail for not less than ten days, which sentence may not be suspended.
6 Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the
7 license revocation for the term of such revocation. Upon the successful completion of a court-
8 approved chemical dependency counseling program, and proof of financial responsibility
9 pursuant to § 32-35-43.1, the court may permit the person to operate a vehicle for the purposes
10 of employment, attendance at school, or attendance at counseling programs.

11 Section 8. That § 32-23-4.3 be amended to read as follows:

12 32-23-4.3. The plea and election of method of trial by the accused shall be first taken only
13 on the first part of the information described in § 32-23-4.2 but before a plea is made the
14 accused shall be informed by the judge, in absence of the jury, of the contents of ~~his~~ the second
15 part. There shall be entered in the minutes of the court the time and place when and where the
16 judge so informed the accused, and like entry thereof shall be made in the judgment.

17 Section 9. That § 32-23-4.4 be amended to read as follows:

18 32-23-4.4. On a finding of guilty on the first part of the information described in § 32-23-4.2
19 a plea shall be taken and, if necessary, an election made on the second part and a trial thereon
20 proceeded with, and until such time no information as to the second part of the information ~~shall~~
21 may be divulged to the jury. If the accused ~~shall have elected~~ elects a jury trial in the second part
22 of the information, such trial may be had to the same or another jury as the court may direct.

23 Section 10. That § 32-23-4.6 be amended to read as follows:

24 32-23-4.6. If conviction for a violation of § 32-23-1 is for a fourth offense and the person

1 has previously been convicted of a felony under § 32-23-4, the person is guilty of a Class 5
2 felony, and the court, in pronouncing sentence, shall ~~unconditionally revoke the defendant's~~
3 ~~driving privileges for such period of time as may be determined by the court, but in no event less~~
4 ~~than two years from the date sentence is imposed or two years from the date of discharge from~~
5 ~~incarceration~~ order that the driver's license of any person so convicted be revoked for a period
6 of not less than two years from the date sentence is imposed or two years from the date of initial
7 release from incarceration to parole supervision, whichever is later. If the person is convicted
8 of driving without a license during that period, the person shall be sentenced to the county jail
9 for not less than twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-
10 19, the court retains jurisdiction to modify the conditions of the license revocation for the term
11 of such revocation. Upon the successful completion of a court-approved chemical dependency
12 counseling program, and proof of financial responsibility pursuant to § 32-35-43.1, the court
13 may permit the person to operate a vehicle for the purposes of employment, attendance at
14 school, or attendance at counseling programs.

15 Section 11. That § 32-23-4.7 be amended to read as follows:

16 32-23-4.7. If conviction for violation of § 32-23-1 is for a fifth offense, or subsequent
17 offenses thereafter, and the person has previously been convicted of a felony under § 32-23-4,
18 the person is guilty of a Class 4 felony and the court, in pronouncing sentencing, shall
19 ~~unconditionally revoke the defendant's driving privileges for such period of time as may be~~
20 ~~determined by the court, but in no event less than two years from the date sentence is imposed~~
21 ~~or two years from the date of discharge from incarceration~~ order that the driver's license of any
22 person so convicted be revoked for a period of not less than three years from the date sentence
23 is imposed or three years from the date of initial release from incarceration to parole
24 supervision, whichever is later. If the person is convicted of driving without a license during that

1 period, the person shall be sentenced to the county jail for not less than twenty days, which
2 sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to
3 modify the conditions of the license revocation for the term of such revocation. Upon the
4 successful completion of a court-approved chemical dependency counseling program, and proof
5 of financial responsibility pursuant to § 32-35-43.1, the court may permit the person to operate
6 a vehicle for the purposes of employment, attendance at school, or attendance at counseling
7 programs.

8 Section 12. That § 32-23-6 be amended to read as follows:

9 32-23-6. The fact that any person charged with a violation of § 32-23-1 is or has been
10 ~~entitled to use~~ prescribed a drug under the laws of this state ~~shall is not constitute~~ a defense
11 against any charge of violating ~~said section~~ § 32-23-1.

12 Section 13. That § 32-23-7 be amended to read as follows:

13 32-23-7. In any criminal prosecution for a violation of § 32-23-1 relating to driving a vehicle
14 while under the influence of ~~intoxicating liquor~~ an alcoholic beverage, a violation of § 22-16-41,
15 or a violation of § 22-16-42, the amount of alcohol in the defendant's blood at the time alleged
16 as shown by chemical analysis of the defendant's blood, breath, or other bodily substance gives
17 rise to the following presumptions:

- 18 (1) If there was at that time five hundredths percent or less by weight of alcohol in the
19 defendant's blood, it is presumed that the defendant was not under the influence of
20 ~~intoxicating liquor~~ an alcoholic beverage;
- 21 (2) If there was at that time in excess of five hundredths percent but less than eight
22 hundredths percent by weight of alcohol in the defendant's blood, such fact does not
23 give rise to any presumption that the defendant was or was not under the influence
24 of ~~intoxicating liquor~~ an alcoholic beverage, but such fact may be considered with

1 other competent evidence in determining the guilt or innocence of the defendant;

2 (3) If there was at that time eight hundredths percent or more by weight of alcohol in the
3 defendant's blood, it is presumed that the defendant was under the influence of
4 ~~intoxicating liquor~~ an alcoholic beverage.

5 Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 1.0
6 cubic ~~centimeters~~ centimeter of whole blood or 2100 cubic centimeters of deep lung breath.

7 Section 14. That § 32-23-8 be amended to read as follows:

8 32-23-8. The provisions of § 32-23-7 ~~shall~~ may not be construed as limiting the introduction
9 of any other competent evidence bearing upon the question whether or not the defendant was
10 under the influence of ~~intoxicating liquor~~ an alcoholic beverage.

11 Section 15. That chapter 32-23 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Any driving permit issued by the court to any person, who has been convicted of a violation
14 of § 32-23-1 within the last ten years or any driving permit issued pursuant to § 32-23-2, if that
15 person had 0.17 percent or more by weight of alcohol in that person's blood, shall be
16 conditioned on the person's total abstinence from the use of alcohol. The court shall immediately
17 revoke the permit upon a showing of proof by a preponderance of the evidence that the person
18 has violated this condition.

19 Section 16. That § 22-16-41 be amended to read as follows:

20 22-16-41. Any person who, while under the influence of an alcoholic beverage, any
21 controlled drug or substance, marijuana, or a combination thereof, without design to effect
22 death, operates or drives a motor vehicle of any kind in a negligent manner and thereby causes
23 the death of another person, including an unborn child, is guilty of vehicular homicide.
24 Vehicular homicide is a Class 3 felony. In addition to any other penalty prescribed by law, the

1 court ~~may also order that the driver's license of any person convicted of vehicular homicide be~~
2 ~~revoked for such period of time as may be determined by the court~~ shall order that the driver's
3 license of any person convicted of vehicular homicide be revoked for a period of not less than
4 ten years from the date sentence is imposed or ten years from the date of initial release from
5 incarceration to parole supervision, whichever is later.

6 Section 17. That § 22-18-36 be amended to read as follows:

7 22-18-36. Any person who, while under the influence of an alcoholic beverage, any
8 controlled drug or substance, marijuana, or a combination thereof, without design to effect
9 serious bodily injury, operates or drives a motor vehicle of any kind in a negligent manner and
10 thereby causes the serious bodily injury of another person, including an unborn child, is guilty
11 of vehicular battery. Vehicular battery is a Class 4 felony. In addition to any other penalty
12 prescribed by law, the court ~~may also order that the driver's license of any person convicted of~~
13 ~~vehicular battery be revoked for a period of two years subsequent to release from incarceration~~
14 shall order that the driver's license of any person convicted of vehicular battery be revoked for
15 a period of not less than three years from the date sentence is imposed or three years from the
16 date of initial release from incarceration to parole supervision, whichever is later.

State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

835M0581

SENATE ENGROSSED NO. **HB 1147** - 02/08/2006

Introduced by: Representatives Murschel, Cutler, Dykstra, Hackl, Halverson, Heineman, Hennies, Hunhoff, Kroger, McCoy, O'Brien, Rounds, and Thompson and Senators Schoenbeck, Abdallah, Bartling, Broderick, Dempster, Knudson, Moore, Nesselhuf, Sutton (Dan), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to revise certain eligibility restrictions related to secondary
2 school extracurricular activities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-32-9 be amended to read as follows:

5 13-32-9. Any person adjudicated, convicted, the subject of an informal adjustment or court-
6 approved juvenile diversion program, or the subject of a suspended imposition of sentence for
7 possession, use, or distribution of controlled drugs or substances or marijuana as defined in
8 chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as
9 prohibited by § 22-42-15, is ineligible to participate in any extracurricular activity at any
10 secondary school accredited by the Department of Education for one calendar year from the date
11 of adjudication, conviction, diversion, or suspended imposition of sentence. The one-year
12 suspension may be reduced to sixty school days if the person participates in an assessment with
13 a certified chemical dependency counselor or completes an accredited intensive prevention or
14 treatment program. If the assessment indicates the need for a higher level of care, the student



1 is required to complete the prescribed program before becoming eligible to participate in
2 extracurricular activities. Upon a subsequent adjudication, conviction, diversion, or suspended
3 imposition of sentence for possession, use, or distribution of controlled drugs or substances or
4 marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the
5 body any substances as prohibited by § 22-42-15, by a court of competent jurisdiction, that
6 person is ineligible to participate in any extracurricular activity ~~while that person is attending~~
7 at any secondary school accredited by the Department of Education. Upon such a determination
8 in any juvenile court proceeding the Unified Judicial System shall give notice of that
9 determination to the South Dakota High School Activities Association and the chief
10 administrator of the school in which the person is ~~enrolled~~ participating in any extracurricular
11 activity.

12 Upon placement of the person in an informal adjustment or court-approved juvenile
13 diversion program, the state's attorney who placed the person in that program shall give notice
14 of that placement to the South Dakota High School Activities Association and chief
15 administrator of the school in which the person is participating in any extracurricular activity.

16 As used in this section, the term, extracurricular activity, means any activity sanctioned by
17 the South Dakota High School Activities Association.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

497M0157

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1160** - 01/31/2006

Introduced by: Representatives Brunner, Elliott, Hackl, Hennies, Hills, Lange, McCoy, Nelson, Novstrup, Rave, Roberts, Schafer, Street, Tornow, and Weems and Senators Kooistra and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to provide additional state funding to school districts that
2 offer certain services and opportunities to students receiving alternative instruction.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In addition to the funds from the foundation program fund distributed to schools according
7 to the provisions of §§ 13-13-10.1 to 13-13-41, inclusive, a school district is entitled to
8 additional funds in an amount equal to twenty-five percent of the per student allocation as
9 defined in subdivision 13-13-10.1(4) for every student who resides in the district and is
10 receiving alternative instruction as set forth in § 13-27-3. However, a school district may only
11 receive the funding set forth in this section if the district provides the student with the
12 opportunity to participate in interscholastic activities pursuant to § 13-36-7 and also makes
13 available to the student other services provided by the school.

14 In order to receive this funding, a school district shall apply on forms provided by the



1 Department of Education. The Department of Education may promulgate rules pursuant to
2 chapter 1-26 to establish application procedures, timelines, and procedures for determining
3 funding eligibility.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

951M0347

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1167 - 02/09/2006

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Wick, Boomgarden, Buckingham, Cutler, Deadrick, Dykstra, Faehn, Frost, Garnos, Glover, Hackl, Halverson, Heineman, Hennies, Hills, Hunhoff, Hunt, Jensen, Klaudt, Koistinen, Kraus, Krebs, Lange, McCoy, McLaughlin, Michels, Murschel, Nelson, Novstrup, Pederson (Gordon), Putnam, Rausch, Rave, Rhoden, Rounds, Schafer, Sebert, Street, Tidemann, Turbiville, Van Etten, Vehle, Weems, and Willadsen and Senators Knudson, Apa, Bogue, Broderick, Duenwald, Earley, Gray, Kelly, Koskan, Lintz, McNenny, Peterson (Jim), Smidt, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to create a tax relief fund and to dedicate certain sales and
2 use tax revenue received by the state through the Streamlined Sales and Use Tax Agreement.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby created in the state treasury the tax relief fund. The revenue
5 collected pursuant to section 2 of this Act shall be deposited in the tax relief fund for the
6 purpose of reducing the rate of taxation or reducing property taxes. The fund shall be invested
7 as provided by law, and the interest earned shall be credited to the fund. The Legislature may
8 not appropriate any money from the tax relief fund until the second fiscal year after Congress
9 approves legislation giving states the authority to require retailers to collect South Dakota's sales
10 and use tax.

11 Section 2. The additional net revenue received by the state from voluntary retail licensees



1 shall be deposited in the tax relief fund created pursuant to section 1 of this Act. For the
2 purposes of this Act, a voluntary retail licensee is any person licensed through the Streamlined
3 Sales and Use Tax Agreement to remit sales and use tax pursuant to chapters 10-45 and 10-46
4 who does not otherwise have a legal obligation to remit such taxes.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

938M0445

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1175 - 02/09/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives McLaughlin, Elliott, Frost, Hanks, Hennies, Hills, McCoy, Roberts, Schafer, Thompson, and Van Etten and Senators Adelstein, Dempster, Gant, Gray, Hundstad, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to appropriate money for nonrecurring education
2 enrichment.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the state general fund the sum of two million
5 eight hundred four thousand four hundred eighty-five dollars (\$2,804,485), or so much thereof
6 as may be necessary, to the Department of Education for distribution on an average daily
7 membership basis for education enrichment outside the state aid to general education foundation
8 formula in chapter 13-13. Local education agencies may use the funds received pursuant to this
9 Act at their discretion.

10 Section 2. No moneys appropriated in this Act may be construed as an entitlement or
11 continuing state obligation for education funding.

12 Section 3. The secretary of the Department of Education shall approve vouchers and the
13 state auditor shall draw warrants to pay expenditures authorized by this Act.

14 Section 4. Any amounts appropriated in this Act not lawfully expended or obligated by



1 June 30, 2007, shall revert in accordance with § 4-8-21.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

929M0446

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1176 - 02/09/2006

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives McLaughlin, Buckingham, Cutler, Dykstra, Faehn, Frost, Hanks, Haverly, Heineman, Hennies, Hills, Kraus, McCoy, Murschel, Roberts, Thompson, Tornow, Van Etten, Weems, and Wick and Senators Adelstein, Kelly, and McCracken

1 FOR AN ACT ENTITLED, An Act to allow the Department of Education to enter into certain
2 enrollment agreements with the state of Minnesota.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-28A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 The secretary of the Department of Education may enter into agreements with the
7 appropriate parties from the state of Minnesota to establish an enrollment options program
8 between South Dakota and Minnesota

9 Section 2. That chapter 13-28A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 Any agreement entered into pursuant to this chapter shall specify the following:

12 (1) For students who are not residents of South Dakota, the enrollment options program
13 applies only to a student whose resident school district borders South Dakota;



1 (2) If Minnesota sends more students to South Dakota than South Dakota sends to
2 Minnesota, Minnesota will pay South Dakota an amount agreed upon for the excess
3 number of students sent to South Dakota;

4 (3) If South Dakota sends more students to Minnesota than Minnesota sends to South
5 Dakota, South Dakota will pay Minnesota an amount agreed upon for the excess
6 number of students sent to Minnesota.

7 Section 3. That chapter 13-28A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 Any agreement entered into pursuant to this chapter shall specify the application procedures
10 for the enrollment options program between South Dakota and Minnesota.

11 Section 4. That chapter 13-28A be amended by adding thereto a NEW SECTION to read
12 as follows:

13 Any agreement entered into pursuant to this chapter shall specify the reasons for which an
14 application for the enrollment options program between South Dakota and Minnesota may be
15 denied.

16 Section 5. That chapter 13-28A be amended by adding thereto a NEW SECTION to read
17 as follows:

18 Any agreement entered into pursuant to this chapter shall specify that a South Dakota school
19 district is not responsible for transportation for any resident student attending school in
20 Minnesota under the provisions of this chapter. However, a South Dakota school district may,
21 at its discretion, provide transportation services for such a student.

22 Section 6. That chapter 13-28A be amended by adding thereto a NEW SECTION to read
23 as follows:

24 Any agreement entered into pursuant to this chapter may specify additional terms relating

1 to any student in need of special education or special education and related services pursuant
2 to chapter 13-37.

3 Section 7. That chapter 13-28A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 For the purposes of state aid to education distributed pursuant to chapter 13-13, any student
6 sent to South Dakota from Minnesota is included in the receiving school district's average daily
7 membership.

8 Section 8. That chapter 13-28A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 For the purposes of state aid to education distributed pursuant to chapter 13-13, any student
11 sent to Minnesota from South Dakota may not be included in the resident school district's
12 average daily membership.

13 Section 9. That chapter 13-28A be amended by adding thereto a NEW SECTION to read
14 as follows:

15 Any student whose resident school district does not receive state aid to education under the
16 provisions of chapter 13-13 or 13-37 may not attend school in Minnesota unless the student's
17 resident school district pays the State of South Dakota an amount equal to the per student
18 allocation as defined in chapter 13-13 or 13-37 for each student sent to Minnesota.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

337M0059

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1180 - 02/08/2006

Introduced by: Representatives O'Brien, Cutler, Garnos, Haley, Hunhoff, Jensen, Murschel, Nelson, Roberts, and Tidemann and Senators Duenwald, Abdallah, Dempster, Hansen (Tom), Knudson, Olson (Ed), Smidt, and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to prohibit certain acts of child neglect, abuse, and
2 endangerment and to provide penalties therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 It is a Class 1 misdemeanor for any parent, guardian, or custodian as defined in § 26-7A-1
7 to willfully deprive a child of necessary food, clothing, shelter, medical care, or supervision
8 appropriate to the child's age, if the parent or guardian is reasonably able to make the provision
9 and if the deprivation harms or endangers the child. However, if the deprivation results in
10 serious bodily injury or substantial harm to the child's mental health, the violation is a Class 6
11 felony.

12 Section 2. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 It is a Class 6 felony for any parent, guardian, or custodian to knowingly permit physical or



1 sexual abuse of a child.

2 It is an affirmative defense, to be proven by clear and convincing evidence, to prosecution
3 under this section if, at the time of the offense, there was a reasonable belief that acting to stop
4 or to prevent the abuse would result in substantial bodily harm to the defendant or the child in
5 retaliation.

6 Section 3. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 It is a Class 1 misdemeanor for any parent, guardian, or custodian to knowingly cause a child
9 to be present where any person is using, distributing, or manufacturing methamphetamines.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

655M0655

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1203** - 02/08/2006

Introduced by: Representative Gillespie and Senator Bogue

1 FOR AN ACT ENTITLED, An Act to define marital and nonmarital property for the purposes
2 of the division of property between parties at divorce.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 25-4-44 be amended to read as follows:

5 25-4-44. When a divorce is granted, the ~~courts~~ court may make an equitable division of the
6 marital property belonging to either or both, whether the title to such property is in the name of
7 the husband or the wife. In making such division of the property, the court shall have regard for
8 equity and the circumstances of the parties. The court may consider the nonmarital property
9 when determining an equitable division of property, the need of a spouse for support, and the
10 ability to provide support.

11 Section 2. That chapter 25-4 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 For the purposes of § 25-4-44, there is a rebuttable presumption that nonmarital property is
14 all property:

15 (1) Acquired prior to the marriage;



1 (2) Acquired by inheritance or gift from any third party or source;

2 (3) Excluded by valid agreement;

3 (4) That is the direct result of the increase in value of assets that are nonmarital property.

4 All other assets of the parties are marital property.

5 Section 3. That chapter 25-4 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Nonmarital property does not become marital property solely because of commingling.

8 However, the increase in value of assets that are nonmarital property may be marital property
9 if:

10 (1) Appreciation was the result of investment of marital property in the nonmarital
11 property; or

12 (2) Appreciation was the result of marital labor in managing or improving the nonmarital
13 property.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

662M0629

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1219 - 02/08/2006

Introduced by: Representatives Vehle, Boomgarden, Brunner, Faehn, Haley, Hennies, Jensen, Miles, Rave, Sebert, Street, Tornow, and Van Etten and Senators Olson (Ed), Abdallah, Broderick, Dempster, Duniphan, McCracken, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise the advice that a law enforcement officer must
2 give any person arrested for driving under influence.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-23-10 be amended to read as follows:

5 32-23-10. Any person who operates any vehicle in this state is considered to have given
6 consent to the withdrawal of blood or other bodily substance and chemical analysis of the
7 person's blood, breath, or other bodily substance to determine the amount of alcohol in the
8 person's blood and to determine the presence of marijuana or any controlled drug or substance.

9 ~~The~~ If a person has been arrested for a first or second violation of § 32-23-1 and the person
10 has not been arrested for vehicular homicide under § 22-16-41 or vehicular battery under § 22-
11 16-42 or the person has not been involved in an accident resulting in death or serious bodily
12 injury of another person, the person shall be requested by the officer to submit to the withdrawal
13 of blood or other bodily substance for chemical analysis or chemical analysis of the person's
14 breath and shall be advised by the officer only that:



- 1 (1) If the person refuses to submit to the withdrawal or chemical analysis, no withdrawal
2 or chemical analysis may be required ~~unless the person has been arrested for a third,~~
3 ~~fourth, or subsequent violation of § 32-23-1, constituting a felony offense under § 32-~~
4 ~~23-4 or 32-23-4.6; has been arrested for vehicular homicide under § 22-16-41 or~~
5 ~~vehicular battery under § 22-16-42; or has been involved in an accident resulting in~~
6 ~~death or serious bodily injury of another person;~~
7 (2) If the person refuses to submit to the withdrawal or chemical analysis, the person's
8 driver's license shall be revoked for one year, ~~unless pursuant to § 32-23-11.1 the~~
9 ~~person pleads guilty to a violation of § 32-23-1 or 32-23-21, prior to a revocation~~
10 ~~order being issued~~ as provided by state law; and
11 (3) The person has the right to have a separate chemical analysis performed by a
12 technician of the person's own choosing at the person's own expense, ~~in addition to~~
13 ~~the test requested by the officer.~~

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

668M0623

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1221 - 02/09/2006

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Heineman, Cutler, McLaughlin, and Wick and Senator Smidt

1 FOR AN ACT ENTITLED, An Act to create a statewide mathematics initiative and to make an
2 appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby established within the Department of Education a statewide
5 mathematics initiative to significantly enhance the mathematics achievement of students in
6 kindergarten through twelfth grade. The initiative shall include the following elements:

7 (1) A professional development program and the use of math specialists to improve math
8 instruction at the elementary level;

9 (2) Opportunities for middle school and high school mathematics teachers to develop
10 research-based instructional activities within a technology-based environment;

11 (3) Remedial academies held during the summer months to enable middle school
12 students to be prepared for high school mathematics requirements;

13 (4) Opportunities for high school students who need remediation in mathematics before
14 entering higher education; and

15 (5) Gifted institutes held during the summer for those students with special aptitudes and



1 interest in math, science, and engineering.

2 Section 2. There is hereby appropriated from any money appropriated for state aid to general
3 education that is not expended or legally obligated the sum of one dollar (\$1), or so much
4 thereof as may be necessary, to the Department of Education to fund the statewide mathematics
5 initiative created in this Act.

6 Section 3. The secretary of the Department of Education shall approve vouchers and the
7 state treasurer shall draw warrants to pay expenditures authorized by this Act.

8 Section 4. Any amounts appropriated in this Act not lawfully expended shall revert in
9 accordance with § 4-8-21.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

749M0624

HOUSE EDUCATION COMMITTEE ENGROSSED NO. HB 1223 -

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Heineman and McLaughlin

1 FOR AN ACT ENTITLED, An Act to require the Department of Education to include proposed
2 legislation in the final report of the study of school funding, and to revise the deadline for
3 submission of the report.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That section 4 of chapter 94 of the 2005 Session Laws be amended to read as
6 follows:

7 Section 4. The Department of Education shall provide an interim report to the Legislature
8 no later than December 1, 2005. The interim report shall include preliminary findings regarding
9 sparse schools, and a final report ~~shall follow no later than December 1, 2006, including~~
10 proposed legislation which addresses each of the factors enumerated in section 2, shall be
11 submitted to the Executive Board of the Legislative Research Council no later than
12 November 15, 2006.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0678

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1238** - 02/08/2006

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to purchase certain real
2 property for the sole purpose of providing a site for the operation of instructional, research
3 and service programs delivered through institutions established by the Legislature and
4 governed by the Board of Regents, to make an appropriation therefor, and to declare an
5 emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

7 Section 1. The Board of Regents may purchase real property, approximately two hundred
8 sixty-three acres more or less, located in Minnehaha County from the Department of
9 Transportation at appraised value. The real property being described as follows: the NW1/4 of
10 Section 36, Township 102 North, Range 50 West, 5th P.M., less Lots H2, H3, H4, H5, H6 and
11 H7 thereof, and Lot A in the NE1/4 of Section 36, Township 102 North, Range 50 West, 5th
12 P.M., all located in Minnehaha County, South Dakota; Lot C, in the NE1/4 of Section 36,
13 Township 102 North, Range 50 West, 5th P.M., Minnehaha County, South Dakota; Lot D, in the
14 NE1/4 of Section 36, Township 102 North, Range 50 West, 5th P.M., Minnehaha County, South
15 Dakota.



1 Section 2. There is hereby appropriated the sum of five million eight hundred seventy
2 thousand dollars (\$5,870,000) of other fund expenditure authority, payable from funds donated
3 and accepted for the purposes of this Act, or so much thereof as may be necessary, to the Board
4 of Regents for the purchase of the land specified in section 1 of this Act.

5 Section 3. The expenditures authorized by this Act shall be solely for the purposes of
6 providing a site for the operation of instructional, research and service programs delivered
7 through institutions established by the Legislature and governed by the Board of Regents. The
8 Board of Regents may not:

- 9 (1) Organize the programs delivered at this site into a separate degree-granting
10 institution;
- 11 (2) Erect student residence facilities on the site;
- 12 (3) Construct facilities on the site for use as intercollegiate athletic practice or
13 competition;
- 14 (4) Establish intercollegiate athletic teams at the site; or
- 15 (5) Sell any portion of the property acquired pursuant to this Act.

16 Section 4. The executive director of the Board of Regents shall approve vouchers and the
17 state auditor shall draw warrants to pay expenditures authorized by this Act.

18 Section 5. The purchase of real property pursuant to this Act is contingent on the approval
19 of construction of an instructional classroom building in Sioux Falls.

20 Section 6. Whereas, this Act is necessary for the support of the state government and its
21 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
22 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0647

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1240** - 02/08/2006

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to transfer funds from the railroad trust fund, to make an
2 appropriation for low income energy assistance, and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby transferred one dollar (\$1) from the railroad trust fund established
5 in § 49-16C-1 to the Department of Social Services.

6 Section 2. There is hereby appropriated the sum of one dollar (\$1), or so much thereof as
7 may be necessary, of other fund expenditure authority to the Department of Social Services, to
8 provide low income energy assistance to eligible households and tribes.

9 Section 3. The secretary of the Department of Social Services shall approve vouchers and
10 the state auditor shall draw warrants to pay expenditures authorized by section 2 of this Act.

11 Section 4. Whereas, this Act is necessary for the support of the state government and its
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
13 full force and effect from and after its passage and approval.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0671 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1241 - 02/08/2006

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to reappropriate certain moneys to fund sales tax on food
2 refunds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby reappropriated the sum of three million dollars (\$3,000,000) of
5 general funds, or so much thereof as may be available, and one million two hundred fifty
6 thousand dollars (\$1,250,000) of other fund expenditure authority, or so much thereof as may
7 be available to the Department of Social Services to provide sales tax on food refunds for South
8 Dakota families who need it most pursuant to chapter 55 of the 2005 Session Laws.

9 Section 2. The secretary of the Department of Social Services shall approve vouchers and
10 the state auditor shall draw warrants to pay expenditures authorized by this Act.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0669

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1242** - 02/08/2006

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to transfer funds from the railroad trust fund to the property
2 tax reduction fund.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby transferred one dollar (\$1) from the railroad trust fund established
5 in § 49-16C-1 to the property tax reduction fund to reimburse appropriations made during the
6 special session of the 2005 Legislature.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0641 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1244 - 02/08/2006

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to transfer funds from the railroad trust fund, to make an
2 appropriation to construct instructional classrooms, and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby transferred one dollar (\$1) from the railroad trust fund established
5 in § 49-16C-1 to the Board of Regents.

6 Section 2. There is hereby appropriated the sum of one dollar (\$1), or so much thereof as
7 may be necessary, of other fund expenditure authority to the Board of Regents to build an
8 instructional classroom building in Sioux Falls to provide the physical resources needed for
9 classrooms, offices, student support services, and labs for undergraduate and graduate programs.

10 Section 3. The design and construction of the facility approved by this Act shall be under
11 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
12 commissioner of the Bureau of Administration and the executive director of the Board of
13 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
14 authorized by section 2 of this Act.

15 Section 4. The construction of the instructional classroom building pursuant to this Act is



1 contingent on the purchase of land located in Minnehaha County by the Board of Regents.

2 Section 5. That § 13-39-70 be amended to read as follows:

3 13-39-70. There is hereby created within the vocational education facilities fund ~~of the~~
4 ~~secretary of education~~ a tuition subaccount. The secretary may determine and require that all or
5 any portion of the tuition and other student fees payable to an LEA shall be deposited in the
6 subaccount. No moneys may be disbursed from the tuition subaccount for any purpose other
7 than to pay lease rentals or other amounts due and owing in connection with ~~any~~;

8 (1) Any facility originally leased to the board of regents but now utilized for vocational
9 education so long as such facility is on the campus of a postsecondary technical
10 institute; and

11 (2) Any lease-purchase agreement authorized under §§ 13-39-66 and 13-39-67 unless
12 and until the health and educational facilities authority files with the state treasurer
13 a certification that it has on deposit or there has otherwise been appropriated
14 sufficient moneys to pay all amounts due or to become due within the next three
15 months on all such lease-purchase agreements.

16 No lease rentals on facilities described in subsection (1) shall be paid unless the secretary
17 of education has approved the assumption of the former board of regents' lease obligations by
18 the tuition subaccount. Thereafter, the state treasurer shall retain in the vocational education
19 facilities fund for future repair and improvement as authorized by the Legislature such amounts,
20 not to exceed ten percent thereof, as the secretary shall direct.

21 Section 6. Whereas, this Act is necessary for the support of the state government and its
22 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
23 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

589M0129

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 2** - 01/27/2006

Introduced by: Senators Schoenbeck, Bogue, and Moore and Representatives Michels,
Hargens, and Rhoden

1 FOR AN ACT ENTITLED, An Act to appropriate money for the creation of a circuit court
2 judgeship in the second judicial circuit.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the state general fund the sum of one hundred
5 ninety-one thousand two dollars (\$191,002), or so much thereof as may be necessary, to the
6 Unified Judicial System for the creation of a circuit court judgeship in the second judicial
7 circuit. The sum of one hundred seventy-five thousand four hundred seventy-three dollars
8 (\$175,473) appropriated by this section may be used for personal services and benefits. The sum
9 of fifteen thousand five hundred twenty-nine dollars (\$15,529) appropriated by this section may
10 be used for operational expenses.

11 Section 2. There is hereby approved 2.0 FTE for a circuit court judge position and support
12 staff in the second judicial circuit.

13 Section 3. The state court administrator shall approve vouchers and the state auditor shall
14 draw warrants to pay expenditures authorized by this Act.

15 Section 4. Any amounts appropriated in this Act not lawfully expended or obligated by



1 June 30, 2007, shall revert in accordance with § 4-8-21.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0311

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 20** - 01/27/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a new dairy
2 manufacturing plant at South Dakota State University and to make an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
5 equipping, and maintaining of, including heating air conditioning, plumbing, water, sewer,
6 electric facilities, architectural and engineering services, asbestos abatement, and such other
7 services as may be required to construct, a new dairy manufacturing plant at South Dakota State
8 University in Brookings, in Brookings County, at an estimated cost of four million dollars.

9 Section 2. There is hereby appropriated to the Board of Regents four million dollars
10 (\$4,000,000), or so much thereof as may be necessary, from private donations and grants
11 received by South Dakota State University to construct the facility described in section 1 of this
12 Act.

13 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for
14 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
15 be deemed appropriated to the project authorized by this Act.



1 Section 4. The design and construction of the facility approved by this Act shall be under
2 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
3 commissioner of the Bureau of Administration and the executive director of the Board of
4 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
5 authorized by this Act.

6 Section 5. No general fund dollars may be used for the maintenance and repair of the facility
7 authorized by this Act.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0314

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 21** - 01/27/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a manure
2 separator for the South Dakota Agricultural Experiment Station and to make an
3 appropriation therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
7 electric facilities, architectural and engineering services, asbestos abatement, and such other
8 services as may be required to construct, a manure separator for the South Dakota Agricultural
9 Experiment Station, located at Brookings, in Brookings County, at an estimated cost of one
10 hundred fourteen thousand dollars.

11 Section 2. There is hereby appropriated to the Board of Regents one hundred fourteen
12 thousand dollars (\$114,000), or so much thereof as may be necessary, from federal and grant
13 funds awarded to the South Dakota Agricultural Experiment Station to construct the facility
14 described in section 1 of this Act.

15 Section 3. The Board of Regents may accept, transfer , and expend any funds obtained for



1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
2 be deemed appropriated to the project authorized by this Act.

3 Section 4. The design and construction of the facility approved by this Act shall be under
4 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
5 commissioner of the Bureau of Administration and the executive director of the Board of
6 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
7 authorized by this Act.

8 Section 5. No general fund dollars may be used for the maintenance and repair of the facility
9 authorized by this Act.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0312

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 23** - 01/27/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a livestock
2 feed storage room as an addition to the livestock feed facility at the South Dakota
3 Agricultural Experiment Station Southeast Research Farm and to make an appropriation
4 therefor.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
7 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
8 electric facilities, architectural and engineering services, asbestos abatement, and such other
9 services as may be required to construct, a livestock feed storage room as an addition to the
10 livestock feed facility at the South Dakota Agricultural Experiment Station Southeast Research
11 Farm, in Union County, at an estimated cost of seventeen thousand dollars.

12 Section 2. There is hereby appropriated to the Board of Regents seventeen thousand dollars
13 (\$17,000), or so much thereof as may be necessary, from the South Dakota Agricultural
14 Experiment Station activity funds to construct the facility described in section 1 of this Act.

15 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for



1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
2 be deemed appropriated to the project authorized by this Act.

3 Section 4. The design and construction of the facilities approved by this Act shall be under
4 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
5 commissioner of the Bureau of Administration and the executive director of the Board of
6 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
7 authorized by this Act.

8 Section 5. Notwithstanding the provisions of § 13-51-2, no money from the state general
9 fund, student tuition fees, nor the educational facilities fund may be used to finance the
10 maintenance and repair of the facilities specified in this Act.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0350

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 39** - 01/17/2006

Introduced by: The Committee on Commerce at the request of the Department of Public Safety

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding petroleum and motor
2 fuels testing, quality, and labeling.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 37-2-5 be amended to read as follows:

5 37-2-5. Terms used throughout §§ 37-2-5 to 37-2-24, inclusive, mean:

6 (1) "Alcohol," a colorless volatile flammable liquid containing no more than 1.25 percent
7 of water used for the purpose of blending or mixing with gasoline for use in motor
8 vehicles and commonly known as alcohol, ethanol or methanol;

9 (2) "ASTM," the American Society for Testing and Materials;

10 (3) "Aviation gasoline," a volatile hydrocarbon fuel free from suspended water and
11 sediment matter and that is suitable for use as a fuel in an aviation spark ignition
12 internal combustion engine designed for use in an aircraft;

13 (3A) "Biodiesel," a fuel comprised of mono-alkyl esters of long chain fatty acids derived
14 from vegetable oils or animal fats, designated B100, and meeting the requirements
15 of the American Society of Testing and Materials D 6751 as of January 1, 2005, and



1 is registered with the United States Environmental Protection Agency as a fuel and
2 fuel additive under section 211(b) of the Clean Air Act in effect on January 1, 2006;

3 (3B) "Biodiesel blend," a special blended fuel comprised of at least two percent by volume
4 of biodiesel blended with petroleum-based diesel fuel, designated BXX. In the
5 abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the
6 blend;

7 (4) "Department," the Department of Public Safety;

8 (5) "Diesel fuel," a refined middle distillate hydrocarbon fuel free from suspended water
9 and sediment matter that is suitable for use as a fuel in a ~~diesel~~ compression-ignition
10 (diesel) internal combustion engine;

11 (5A) "Ether," methyl tertiary butyl ether;

12 (6) "Flash test" and "flash point," the flash point as determined by the method of the
13 American Society for Testing Materials, using the instrument known as the Tagliabue
14 closed cup tester;

15 (7) "Gasoline," a volatile hydrocarbon fuel free from suspended water and sediment
16 matter that is practicable and suitable used as fuel in a spark ignition internal
17 combustion engine;

18 (8) "Inspector," the secretary of the Department of Public Safety or any deputy or
19 assistant appointed by the secretary for the purpose of enforcing the provisions of this
20 chapter;

21 (9) "Kerosene," a hydrocarbon fuel intended for use in heating and illumination and
22 having an American Petroleum Institute gravity of not less than forty degrees.
23 Kerosene shall also include coal oil and burner oil;

24 (9A) "NIST," the National Institute of Standards and Technology;

(10) "Petroleum products," gasoline, alcohol blended fuels, kerosene, diesel fuel, aviation gasoline, burner oil, naphtha and lubricating oils.

Section 2. That § 37-2-6 be amended to read as follows:

37-2-6. The secretary of the Department of Public Safety may, pursuant to chapter 1-26, and in general conformity with ASTM and NIST standards in effect on January 1, 2005, promulgate rules:

(1) Establishing standards for the maximum volume percentages of ethanol, methanol, ether, and cosolvents in alcohol blended fuels;

(2) Establishing a program for and prescribing the methods to be used for the inspection and testing of alcohol blended fuels ~~and~~ petroleum products, biodiesel, and biodiesel blends;

(3) Requiring labeling of devices dispensing alcohol blended fuels, biodiesel, and biodiesel blends;

(4) Establishing standards setting the specifications and tolerance requirements for petroleum products, biodiesel, and biodiesel blends; and

(5) Regulating the filtering system to be used on devices dispensing alcohol blended fuels.

Section 3. That § 37-2-7 be amended to read as follows:

37-2-7. Specifications and methods for the examination and test of petroleum products shall be jointly determined by the Division of Commercial Inspection and Licensing and the director of ~~laboratories~~ the State Health Laboratory and shall be based upon ~~nationally recognized~~ standards from the American Society for Testing and Materials and the National Institute for Standards and Technology as of January 1, 2005. ~~When so determined, and If adopted and~~

1 ~~published as rules and regulations~~ of the division in accordance with the provisions of chapter
2 1-26, ~~such~~ the specifications shall be the specifications for such petroleum products sold in this
3 state and official tests of ~~such~~ the petroleum products shall be based upon test specifications so
4 determined, adopted, and promulgated.

5 Section 4. That § 37-2-8 be amended to read as follows:

6 37-2-8. The director of ~~laboratories~~ the State Health Laboratory, or other qualified
7 laboratory, shall make ~~such~~ an analysis as may be requested by the secretary of the Department
8 of Public Safety. Distillation tests shall be made in accordance with the methods for ~~such~~ the
9 tests adopted by the American Society for Testing and Materials.

10 Section 5. That § 37-2-23 be repealed.

11 ~~— 37-2-23. Any inspector having knowledge of a violation of any of the provisions of §§ 37-2-~~
12 ~~5 to 37-2-24, inclusive, must immediately enter complaint before a court of competent~~
13 ~~jurisdiction against the person so offending, and in case of neglect to enter such complaint, such~~
14 ~~inspector shall be punished as provided in § 37-2-16.~~

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

664M0513

SENATE ENGROSSED NO. **SB 78** - 01/30/2006

Introduced by: Senator Knudson and Representative Michels

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the submission of
2 direct legislation to a vote of the people at a general election.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 2-1-2 be amended to read as follows:

5 2-1-2. The petition shall be filed in the ~~office of the secretary of state~~ Office of the Secretary
6 of State by the first Tuesday in ~~May~~ April of a general election year for submission to the
7 electors at the next general election.

8 Section 2. That § 2-1-6.2 be amended to read as follows:

9 2-1-6.2. The full text of any initiative petition, referred law petition, or initiated
10 constitutional amendment petition, the date of the general election at which the initiated law or
11 initiated constitutional amendment is to be submitted, and the names and addresses of the
12 petition sponsors shall be filed with the secretary of state prior to circulation for signatures. The
13 signer's post office box number may be given in lieu of a street address if the signer lives within
14 a municipality of the second or third class. The form of the petitions shall be prescribed by the
15 State Board of Elections. For any initiated constitutional amendment petition, no signatures may
16 be obtained more than twenty-four months preceding the general election that was designated



1 at the time of filing of the full text. For any initiative petition, no signatures may be obtained
2 more than ~~eighteen~~ nineteen months preceding the general election that was designated at the
3 time of filing of the full text. An initiative petition and an initiated constitutional amendment
4 petition shall be filed with the secretary of state by the date set forth in § 2-1-2 or 2-1-2.1, as
5 applicable. All sections of any petition filed under this chapter shall be filed with the secretary
6 of state simultaneously together with a sworn affidavit on forms promulgated by the State Board
7 of Elections, signed by two-thirds of the sponsors stating that the documents filed constitute the
8 entire petition and to the best of their knowledge contain a sufficient number of signatures.

9 Section 3. That § 12-13-9 be amended to read as follows:

10 12-13-9. Before the ~~fourth~~ third Tuesday in ~~July~~ May, the attorney general shall deliver to
11 the secretary of state ~~the~~ an attorney general's statement; for each proposed amendment to the
12 Constitution and each initiated measure. The attorney general's statement for each referred
13 measure shall be delivered to the secretary of state before the second Tuesday in July. The
14 attorney general's statement shall consist of the title, the explanation, and a clear and simple
15 recitation of the effect of a "Yes" or "No" vote. The explanation shall ~~state succinctly~~ be an
16 objective, clear and simple summary to educate the voters of the purpose and ~~legal~~ effect of the
17 proposed amendment to the Constitution, the initiated measure, or the referred law. The
18 ~~explanation shall be a clear and simple summary of the issue and~~ attorney general shall include
19 a description of the legal consequences of the proposed amendment, the initiated measure, or
20 the referred law, including the likely exposure of the state to liability if the proposed
21 amendment, the initiated measure, or the referred law is adopted. The explanation may not
22 exceed two hundred words in length. On the printed ballots, the title shall be followed by the
23 explanation and the explanation shall be followed by the recitation.

24 Section 4. That chapter 12-13 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 In the year 2006, the attorney general's statement for each proposed amendment to the
3 Constitution and each initiated measure shall be delivered to the secretary of state before the
4 second Tuesday in July.

5 Section 5. That § 12-13-23 be amended to read as follows:

6 12-13-23. The secretary of state shall ~~prepare and~~ distribute public information on any
7 constitutional amendment, initiated, or referred measure submitted to the electors for approval.
8 The secretary of state shall compile the public information by printing a statement in support
9 of the constitutional amendment, initiated, or referred measure written by its proponents, if any
10 can be identified, and a statement against the constitutional amendment, initiated, or referred
11 measure written by its opponents, if any can be identified. The secretary of state is not
12 responsible for the contents, objectivity, or accuracy of the statements written by the proponents
13 and opponents.

14 Section 6. That chapter 12-13 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 The secretary of state shall, within five days of delivery from the attorney general, make the
17 attorney general's statement for each proposed amendment to the Constitution, each initiated
18 measure, and each referred law available to any person upon request.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

771M0088

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 107** - 01/24/2006

Introduced by: Senators Olson (Ed), Dempster, Duniphan, Hansen (Tom), Knudson, and Sutton (Duane) and Representatives Sebert, Buckingham, Cutler, Hennies, Kroger, Michels, Putnam, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise the definition of manufacturer as it relates to the
2 ownership of certain motor vehicle dealerships and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-6B-79 be amended to read as follows:

5 32-6B-79. In §§ 32-6B-79 to 32-6B-83, inclusive, the term, manufacturer, includes a
6 representative or a person or entity who is directly or indirectly controlled by, or is under
7 common control with, the manufacturer. For purposes of this section, a person or entity is
8 controlled by a manufacturer if the manufacturer has the authority directly or indirectly, by law
9 or by agreement of the parties, to direct or influence the management and policies of the person
10 or entity. However, the term, manufacturer, does not include any person or entity who
11 manufactures or assembles less than two hundred fifty motorcycles a year or who manufactures
12 or assembles trailers.

13 Section 2. Whereas, this Act is necessary for the support of the state government and its
14 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in



- 1 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

329M0213

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 118** - 02/07/2006

Introduced by: Senators Gant, Broderick, Duniphan, Earley, Gray, McCracken, and McNenny and Representatives Buckingham, Elliott, McCoy, Nelson, O'Brien, Peters, Rausch, Schafer, and Weems

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the type of personal
2 identification required when voting.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 12-18-6.1 be amended to read as follows:

5 12-18-6.1. When a the voter is requesting a ballot, the voter shall present a valid form of
6 personal identification. The personal identification that may be presented shall be either:

7 (1) A South Dakota driver's license or nondriver identification card;

8 (2) A passport or an identification card, including a picture, issued by an agency of the
9 United States government;

10 (3) A tribal identification card, including a picture; or

11 (4) ~~An~~ A current student identification card, including a picture, issued by a high school
12 or an accredited institution of higher education, including a university, college, or
13 technical school, ~~located within the State of South Dakota.~~



State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

661M0199

SENATE ENGROSSED NO. **SB 185** - 01/31/2006

Introduced by: Senators Duenwald, Abdallah, Apa, Bartling, Duniphan, Earley, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Kelly, Kloucek, Koskan, McNenny, Napoli, Olson (Ed), Schoenbeck, Smidt, Sutton (Dan), and Two Bulls and Representatives McCoy, Davis, Frost, Fryslic, Hackl, Hunt, Jerke, Kraus, Lange, Rausch, Rave, Schafer, Tornow, Van Etten, and Wick

1 FOR AN ACT ENTITLED, An Act to require inspections of certain facilities by the Department
2 of Health.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-23A-1 be amended by adding thereto NEW SUBDIVISIONS to read
5 as follows:

6 "Abortion facility," a place where abortions are performed;

7 "Department," the South Dakota Department of Health;

8 Section 2. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 Except as provided by section 3 of this Act, no person may establish or operate an abortion
11 facility in this state without an appropriate license issued under this Act. Each abortion facility
12 shall have a separate license. No abortion facility license is transferrable or assignable.

13 Section 3. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
14 as follows:



1 The following facilities need not be licensed under this Act:

2 (1) A health care facility licensed pursuant to chapter 34-12; or

3 (2) The office of a physician licensed pursuant to chapter 36-4 unless the office is used
4 for performing abortions.

5 Section 4. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 An applicant for an abortion facility license shall submit an application to the department
8 on a form prescribed by the department. The application shall be accompanied by a
9 nonrefundable license fee in an amount set by the department by rules promulgated pursuant to
10 chapter 1-26. The license fee may not exceed two thousand dollars. The application shall
11 contain evidence that there are one or more physicians on the staff of the facility who are
12 licensed by the State Board of Medical and Osteopathic Examiners. The department shall issue
13 a license if, after inspection and investigation, it finds that the applicant and the abortion facility
14 meet the requirements of this Act and the standards promulgated in rules adopted pursuant to
15 this Act. As a condition for renewal of a license, the licensee shall submit to the department the
16 annual license renewal fee set by rules promulgated pursuant to chapter 1-26.

17 Section 5. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 The department may inspect an abortion facility at reasonable times as necessary to ensure
20 compliance with this Act. The department shall inspect an abortion facility before renewing the
21 facility's license.

22 Section 6. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
23 as follows:

24 Any fees collected under this Act shall be deposited in the abortion facility licensing fund

1 and are continuously appropriated to administer and enforce this Act.

2 Section 7. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The department shall adopt rules pursuant to chapter 1-26 for the issuance, renewal, denial,
5 suspension, and revocation of a license to operate an abortion facility. The department shall
6 adopt, by rules promulgated pursuant to chapter 1-26, minimum standards to protect the health
7 and safety of a patient of an abortion facility. The rules shall establish minimum standards
8 regarding:

- 9 (1) Facility safety and sanitation;
- 10 (2) Qualifications and supervision of professional and nonprofessional personnel;
- 11 (3) Emergency equipment and procedures to provide emergency care;
- 12 (4) Medical records and reports;
- 13 (5) Procedure and recovery rooms;
- 14 (6) Infection control;
- 15 (7) Medication control;
- 16 (8) Quality assurance;
- 17 (9) Facility and laboratory equipment requirements, sanitation, testing, and maintenance;
- 18 (10) Information on and access to patient follow-up care; and
- 19 (11) Patient screening, assessment, and monitoring.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0673

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 207** - 02/08/2006

Introduced by: The Committee on Health and Human Services at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the sale,
2 purchasing, and possession of products containing pseudoephedrine or ephedrine.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-20D-1 be amended to read as follows:

5 34-20D-1. No retailer may sell, in a single transaction, more than two packages containing
6 pseudoephedrine or ephedrine as an active ingredient. For purposes of this chapter, the term,
7 retailer, means any person who sells merchandise at retail and from whom original packages of
8 nonprescription drugs are sold or taken to be sold at retail and who is licensed by the Board of
9 Pharmacy to sell nonprescription drugs. This restriction does not apply to any sale made
10 pursuant to a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2
11 with appropriate authority. Any retailer or any employee of a retailer who sells packages
12 containing pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1
13 misdemeanor.

14 Section 2. That § 34-20D-2 be amended to read as follows:

15 34-20D-2. No person may purchase, in a single transaction, more than two packages



1 containing pseudoephedrine or ephedrine as an active ingredient. This restriction does not apply
2 to purchases made with a valid prescription drug order prescribed by a practitioner as defined
3 in § 36-11-2 with appropriate authority. Any person who purchases packages containing
4 pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1 misdemeanor.

5 Section 3. That § 34-20D-3 be amended to read as follows:

6 34-20D-3. Any retailer who offers for sale a product containing pseudoephedrine ~~as the~~
7 ~~product's sole~~ or ephedrine as an active ingredient shall display and offer the product for sale,
8 except as otherwise provided, behind a counter where the public is not permitted or in a locked
9 case so that a customer wanting access to the package must ask a store employee for assistance.
10 The retailer may display or offer for sale without restriction a product containing
11 pseudoephedrine ~~as the sole~~ or ephedrine as an active ingredient if the product is displayed using
12 any type of anti-theft device system including an electronic anti-theft device system that utilizes
13 a product tag and detection alarm which prevents the theft of the product. ~~This section does not~~
14 ~~apply to any package of a product containing pseudoephedrine as the product's sole active~~
15 ~~ingredient which is in liquid, liquid cap, or gel cap form or any package of a product containing~~
16 ~~pseudoephedrine as the product's sole active ingredient which is primarily intended for~~
17 ~~administration to children under twelve years of age, according to the product's label, regardless~~
18 ~~of whether the product is in liquid or solid form.~~

19 Section 4. That § 34-20D-4 be repealed.

20 ~~34-20D-4. Any retailer who offers for sale any combination product containing~~
21 ~~pseudoephedrine or ephedrine as an active ingredient, any package of a product containing~~
22 ~~pseudoephedrine as the product's sole active ingredient which is in liquid, liquid cap, or gel cap~~
23 ~~form or any package of a product containing pseudoephedrine as the product's sole active~~
24 ~~ingredient which is primarily intended for administration to children under twelve years of age,~~

~~according to the product's label, regardless of whether the product is in liquid or solid form, shall display and offer such product for sale, except as otherwise provided, within twenty feet of a counter which allows the attendant to view the products in an unobstructed manner. A retailer may display or offer for sale without restriction any of the products listed in this section if the product is displayed using any type of anti-theft device system, including an electronic anti-theft device system that utilizes a product tag and detection alarm which prevents the theft of the product.~~

Section 5. That § 34-20D-5 be amended to read as follows:

34-20D-5. A retailer shall post notice at the location where a product containing pseudoephedrine or ephedrine as an active ingredient is displayed or offered for sale stating the following:

South Dakota law prohibits the sale or purchase of more than two packages containing pseudoephedrine or ephedrine as an active ingredient unless sold or purchased with a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate authority.

Section 6. That chapter 34-20D be amended by adding thereto a NEW SECTION to read as follows:

If offering for sale a product containing pseudoephedrine or ephedrine as an active ingredient, a retailer shall, before making such a sale, require and make a record of the identification of the person purchasing the product containing pseudoephedrine or ephedrine. For purposes of this section, the term, identification, means a document issued by a governmental agency which contains a description of the person or a photograph of the person, or both, and gives the person's date of birth, such as a driver's license, passport, or military identification card. The retailer shall maintain the record of identification, including the

purchaser's name and date of birth. On August 1, 2006, and no later than the fifth day of every month thereafter, the retailer shall send any such records to the county sheriff of the county in which the sales occurred. No retailer may use or maintain the record for any private or commercial purpose or disclose the record to any person, except as authorized by law. The retailer shall disclose the record, upon request, to a law enforcement agency for a law enforcement purpose.

Section 7. That chapter 34-20D be amended by adding thereto a NEW SECTION to read as follows:

No person may possess, receive, or otherwise acquire more than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in any product, mixture, or preparation within any thirty-day period. This restriction does not apply to any quantity of product, mixture, or preparation obtained pursuant to a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate authority.

Possession of more than nine grams of a drug product containing more than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base constitutes a rebuttable presumption of the intent to use the product as a precursor to methamphetamine or another controlled substance. This rebuttable presumption does not apply to:

- (1) A retail distributor of drug products;
- (2) A wholesale drug distributor, or its agents;
- (3) A manufacturer of drug products, or its agents;
- (4) A pharmacist licensed by the Board of Pharmacy; or
- (5) A licensed health care professional possessing the drug products in the course of carrying out the profession.

Any violation of this section is a Class 1 misdemeanor.